



**Commission on Peace Officer Standards and Training**

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**Subject: Supreme Court Decision on the Release of Peace Officer Records**

On August 27, 2007, the California State Supreme Court rendered its decision regarding the Commission on Peace Officer Standards and Training (POST) v. the Superior Court of Sacramento County (S134072). The court ruled that some peace officer information received from agencies and retained by POST is subject to disclosure pursuant to the California Public Records Act (CPRA). Under the ruling, the information the *Los Angeles Times* sought in 2002 must be released. The information includes the full names of officers, employing departments, appointment dates, type and status of appointments, and termination dates for peace officers who entered or left the service of a California law enforcement department between January 1, 1991, and December 31, 2001. (See the POST 2-114, Notice of Appointment/Termination §§2, 8, 9, 10, 11 & 15.)

The Supreme Court acknowledged that some peace officers could be at risk if their names become public. The court remanded the case back to the Sacramento Superior Court to allow POST to “demonstrate in the superior court that information concerning particular officers should be exempted from disclosure under Government Code sections 6254, subdivision (c) or 6255 and the applicable legal principles set forth in this opinion.”

The court also ruled that POST – not the law enforcement agency - has the responsibility to demonstrate the need to exempt *particular officers’* identities from disclosure. POST will attempt to discuss this issue at the upcoming court hearing. Because POST has no knowledge or record of an individual officer’s assignment, it is impossible to know which officers might be at risk if their identities are made public, regardless of the criteria established. POST believes the employing agency is in the best position to demonstrate the need to exempt a particular officer’s identity.

**Response by POST to Supreme Court Decision**

POST has conferred with department representatives to identify the operational circumstances that would justify withholding the identity of specific officers. POST’s goal is to identify criteria that meet the intent of the Supreme Court ruling and to develop guidelines acceptable to the Sacramento Superior Court, POST client agencies, and the media. If this occurs, POST will publish the exemption criteria for reference in handling future exemption requests.

### **Department Action Required to Exempt Officer Identities**

The court ruling presents two issues that POST must address concurrently.

The first issue concerns the more than 141,000 transactions statewide that fall within the *Los Angeles Times*' request. To comply with the Supreme Court ruling, POST is producing a list of the names of officers who either began or ended employment with an agency between January 1, 1991, and December 31, 2001. POST will ask the Sacramento Superior Court to clarify what it views as acceptable exclusion criteria. Subsequent to the Superior Court hearing, POST will provide each agency with information on the outcome of the hearing, along with a roster of officers' names for the time in question. POST is developing a means for sending an encrypted list of officer names to each agency executive for review. After reviewing the list, the agency executive will provide POST with written justification(s), based on CPRA §§ 6254(c) or 6255.

The second issue concerns future requests for such information under the CPRA. POST is already receiving CPRA requests based on the Supreme Court's ruling and promptly contacts the affected agency when POST receives such a request. Due to the relatively short period (ten days) that POST is allowed to respond to a CPRA request, timely response to POST is imperative. It is incumbent on the agency executive to provide the reason for a disclosure exemption. The CPRA specifies that a denial must be in writing and must include the reason for the denial. Since POST has not yet discussed the criteria for exemption from disclosure with the Sacramento Superior Court, POST has been reviewing each request on its own merits and attempting to provide guidance that reflects the intent of the Supreme Court decision. Until the Sacramento Superior Court addresses the issue of exemption, POST will not release any names contrary to an agency executive's wishes if there is a legal or safety-related justification for nondisclosure.

POST will continue to update agencies about this matter. For the full text of the court decision, go to <http://www.courtinfo.ca.gov/opinions/documents/S134072.DOC>. Please direct your questions to Assistant Executive Director Dick Reed at [Dick.Reed@post.ca.gov](mailto:Dick.Reed@post.ca.gov), Information Services Bureau Chief Dave Spisak at [Dave.Spisak@post.ca.gov](mailto:Dave.Spisak@post.ca.gov), or the Information Services Bureau at 916.227.4840.

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